## MEETING MINUTES – STAKEHOLDER'S MEETING FOR PGP RENEWAL 11/13/13

The following are notes compiled by Division staff from the meeting held 11/13/13 with regard to the renewal of the Pesticide General Permit. Note that the information below is only reflective of what was discussed and contains no interpretation about the ability to implement the changes suggested below and that none of the below resolutions can be implemented prior to rigorous regulatory evaluation.

The meeting opened with attendee introductions. There were four external attendees at this meeting, which fell short of the anticipated turnout. It is presumed that the late start time of the meeting may have influenced turnout numbers and the Division plans to have an earlier start time for the final stakeholder meeting.

The meeting opened with a review of the discussion from the meeting on 10/8/13, which focused on resolving stakeholder issues surrounding the format and due dates of the Compliance Certification. From this discussion, the following were resolved:

- It was agreed the Compliance Certifications shall be due on the first of February 2016 for the application year 2015. This change will be implemented upon issuance of the renewal PGP, scheduled for January 1, 2015. Note that until the new permit has been issued and is effective, Compliance Certifications continue to be due according to those schedules outlined in the current permit.
- It was discussed and agreed that the method of application will continue to be reported in the Compliance Certifications. Applicators in attendance said that this was not an onerous reporting requirement and the Division feels that submission of such information may be helpful in the future.
- The Division imparted to the group that changing the definition of waters of the state would not be undertaken due to the broad implications across multiple agencies that would be affected.
- The Division clarified a previous question, stating that when calculating Treatment Areas to measure against thresholds, all Pest Management Areas are added together and the total area of Pest Management Areas comprises the Treatment Area.
- With respect to ditch companies, the question was posed: How small is too small to fall under the requirements of the permit? And the analogy drawn compared ditches to the hierarchy of roads in America, saying if the first lateral off a stream is a Federal highway, the second ditch would be like a State highway, then a county highway, then a county road and then a private road. Does the private "road" still fall under the requirements of the permit? The Division considers this argument germane and will consider it in the drafting of the permit.

The Division then moved on to present its thoughts on applications to dry ditches:

The first option presented was to allow applications to ditches under the agricultural exemption so that those applications would not have to be counted against thresholds for the purposes of reporting. The Division decided that this

approach would not be an appropriate application of the agricultural exemption due to complex nature of defining, consistently, what would and would not qualify. Resources shortages at the Division would not allow for effective evaluations of compliance and the scope of variability would be far too great to provide consistency to dischargers.

The second option presented was to allow discharges to dry ditches under the guidance of the Division's Low Risk policy. This policy was implemented to exclude discharges that presented a low risk to aquatic life due either to the expected low concentrations of a particular parameter, a low discharge volume, or a short term discharge, from the requirement to obtain a NPDES general permit. In the case of the PGP, the Low Risk policy would be applied to exclude applicators from having to count those miles where applications are made to dry ditches from the threshold calculations due to the fact that the applications are being made only to dry ditches where weather and other factors have been taken into account and that such an application would present a low risk to aquatic life.

The third option provided by the Division was an approach that would increase the threshold distances/areas that are used to determine whether or not a compliance certification needs to be submitted. This approach would deviate from EPA guidelines but would not set a precedent as other states have made similar adjustments. It was discussed that this change could only apply to dry ditches and that any natural stream channel would not qualify.

## Other items of note:

That agencies falling under the umbrella of, "land resource stewardship," need to be reviewed since many city governments claim coverage under the applicable MS4 permit in their area and so do not consider pesticide applications directly to water.

That the mosquito applicators and municipalities may favor the low-risk approach.

That CDOT may favor the increased threshold approach

That using the language, "in accordance with FIFRA," might be effective from a regulatory standpoint when applied to discharges of pesticides to dry ditches.

That spot spraying was being done frequently to treat ditch weeds

It was reiterated that support from decision makers has been difficult to come by and that outreach specific to decision makers is needed.